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## BEFORE THE ARIZONA CORPORATION COMMISSION

RENZ D. JENNINGS

Chairman

MARCIA WEEKS

Commissioner

CARL J. KUNASEK

Commissioner

IN THE MATTER OF THE COMPETITION  
IN THE PROVISION OF ELECTRIC  
SERVICES THROUGHOUT THE STATE  
OF ARIZONA

DOCKET NO. U-0000-94-165

ARIZONA ELECTRIC POWER  
COOPERATIVE INC'S.  
POSITION STATEMENT

The Arizona Electric Power Cooperative, Inc. ("AEP CO") on behalf of itself and its five Arizona member distribution cooperatives submits this Position Paper in relation to the August 12, 1996 Electric Industry Restructuring Workshop.

Two constants guide our views on these issues. First, our customers are our owners. If a competitive marketplace can benefit our customers, we fully support it and look forward to the opportunities it provides. Second, for the past six decades, cooperatives have boldly provided electric service where a regulated industry chose not or could not afford to go. Rural Arizona has much at stake as this Commission considers a transition to a market model even less tolerant of higher costs of service.

Our principle concern about electric industry restructuring- particularly on the rapid timetable envisioned in Composite Rule B - is that it will not benefit our customers who are located in areas the competitive marketplace intuitively will find undesirable. At greatest risk are our rural residential owners. The loss of what would be minor commercial or industrial loads by urban standards can have a seriously debilitating impact on those left behind.

1       Simply stated, there are significant differences between the rural and urban setting and  
2 cooperatives and investor-owned utilities that an expedited rule-making process cannot begin  
3 to carefully assess.

4       Consequently, AEPCO would suggest a different trial approach in light of the significant  
5 differences between rural and urban Arizona. Since Phoenix and Tucson will undoubtedly be  
6 the areas of most immediate market interest, we suggest a pilot or phase-in restructuring program  
7 in those two areas. This would allow the Commission and all affected utilities to observe and  
8 work through a variety of economic, administrative and operational issues prior to statewide  
9 implementation.

10       Then, assuming, for example, adoption of Composite Rule A with an urban pilot program  
11 commencing in the year 2000, statewide implementation could begin in 2004, and all phases  
12 would be completed by 2008. This would be consistent with the overall timetable envisioned  
13 and would afford all parties an opportunity to learn from, rather than duplicate, the lessons and  
14 mistakes of this geographically limited test phase.

15       With the foregoing principles in mind and to ensure that our member-customers  
16 receive the full benefits of any electric industry restructuring, we outline below some of our  
17 major concerns:

18       1.       The Commission rules should state clearly that all contracts existing on the  
19 date of adoption of the Rule shall be honored. The Commission has approved all retail  
20 contracts between utilities and their customers and the bargained-for expectations of the  
21 parties should not be disrupted. This concept is especially important for the rural electric  
22 cooperatives; the impact of a single 50 MW contract is much greater systemwide on a 500  
23 MW system than it is on a 5,000 MW system.

1           2.     Any Commission rule restructuring the electric industry should provide for full  
2 recovery of verifiable stranded costs (or stranded "investment") and should thoroughly detail  
3 the procedure for its determination and payment. The Commission has already reviewed and  
4 approved these costs for each utility through the rate setting process, after extensive staff  
5 review and hearing. Therefore, those same costs should not now undergo another and  
6 different Commission review based upon dissimilar and subjective standards such as those  
7 suggested: the impact on effectiveness of competition, impacts of partial or no recovery on  
8 the utility and its shareholders/ debtholders, impacts on prices paid for electricity, mitigation  
9 of stranded investment, negative stranded investment and ease of determining stranded  
10 investment. Further, recovery should not be decided on a case-by-case basis. To provide  
11 fairness and a competitive chance to succeed, all utilities should recover stranded costs or  
12 investment in exactly the same way, using the same formula, the same process, and on the  
13 same basis. Finally, any discussion of avoidance or "write down" must recognize that rural  
14 electric cooperatives have no one to absorb such write downs and no one to recover it from  
15 but their member-owners, the same customers who should benefit from industry  
16 restructuring.

17           3.     Similarly, the Commission should recognize the unique status of rural electric  
18 cooperatives, their interlocking contractual and financing mechanisms and their member-  
19 owner status. The practical effect of ill considered restructuring for many cooperatives may  
20 be loss of financing from the Rural Utilities Service and an inability to finance major system  
21 improvements because they could not go to another lender without the certainty of a specific  
22 amount of current and future load.

23           4.     The Commission should be sensitive to the possibility that some retail  
24 customers may attempt to by-pass a phase-in process, avoid ACC retail regulation, and  
25 escape stranded cost or system benefit charges by "converting" retail load to wholesale

1 service. This has happened in other jurisdictions. Transition rules or other mechanisms are  
2 needed to prevent this from happening in Arizona.

3 5. Member-owners of several rural electric cooperatives have rates which are  
4 among the lowest in the state. Customers in intensively developed urban areas or those with  
5 large commercial or industrial loads will benefit the most from industry restructuring. Such  
6 customers are easily accessible to and profitable for energy services companies and  
7 aggregators; their proximity to each other or their size makes them easy to market. The  
8 reverse is true for those in less dense or less desirable areas. Further, to the extent that  
9 "cream skimming" diverts the best loads of rural electric cooperatives and thereby increases  
10 the rates of their remaining member-owners, rural customers and those in less desirable  
11 service areas are even more unfairly affected. These customers should not be sacrificed on  
12 the altar of competition. Instead, the restructuring process should include a mechanism to  
13 ensure that benefits of electric competition are fairly and evenly distributed. The  
14 Commission should consider a universal service fund to ensure that our member-customers in  
15 rural areas and other less desirable service areas continue to have access to affordable and  
16 essential electric service.

17 6. As contemplated by Composite Rule A, legal issues should be resolved prior  
18 to beginning a phase-in of competition and the effective date of the Commission rules. Their  
19 early resolution will avoid a deleterious stop-start process, may uncover previously over-  
20 looked issues, and will assist in a smooth transition to competition. Constitutional issues,  
21 such as the Commission's duty to regulate and the vested property rights inherent in a  
22 CC&N loom as large as the long history of statutes and case law which specify a public  
23 utility's obligation to provide adequate service at a reasonable rate, the exclusivity of a  
24 certificated service area and the requirement that the Commission protect that service area as  
25 long as the utility meets its obligation to serve.

1           7.       The Commission must hold a full evidentiary hearing before any rules are  
2 proposed by Staff. Although the workshops have been informational, they have not provided  
3 the kind of forum that prudence and due process requires where (similar to the IRP hearings)  
4 each party presents information which becomes fully developed through the cross-  
5 examination of the other parties. Further, to have a hearing based on a Staff-proposed rule  
6 limits issues to those inherent in the proposed rule; it precludes the discussion of other  
7 issues, could result in overlooking ideas which offer better solutions and denies parties the  
8 opportunity to present divergent views. As importantly, as significant an issue as the  
9 restructuring of the entire electric utility industry in Arizona, with its wide ranging impacts  
10 and ramifications, should not be hastily decided on less than a full and formal hearing.

11           RESPECTFULLY SUBMITTED this 12th day of August, 1996.

12                           ARIZONA ELECTRIC POWER COOPERATIVE, INC.

13  
14           BY 

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21           ORIGINAL AND TEN COPIES of the  
22           hand delivered this 12th day of  
23           August, 1996 for filing the 12th day of August, 1996 with:

24           Arizona Corporation Commission  
25           Docket Control  
26           1200 West Washington Street  
             Phoenix, AZ 85007

             COPY similarly hand delivered by separate cover this 12th  
             day of August, 1996, to all attendees at the August 12, 1996 workshop.